Licensing & Tech. Transfer

- Module 8
- Electronic Information Access Licenses

Advent Systems v. Unisys Corp. (3rd Cir. 1991)

- Advent makes EDMS, a hardware/software solution
- Unisys becomes distributor in the U.S.
- Is the EDMS solution goods or services under the UCC?
  - UCC definition of a good
  - What predominates in the transaction at issue?
  - What predominates generally?
- If goods, is there a violation of the statute of frauds?
  - Analogy to non-exclusive requirements K

Architectronics, Inc. v. Control Systems, Inc. (SDNY 1996)

- SDLA among Arch.; CSI; and CADSource
- Original work; what was derivative work?
- Choice of procedural law analysis by Dist. Ct.
- Breach of K SOL – 4 or 6 years?
- Confidentiality K of 8/13/1987 SOL?
- SDLA SOL for alleged license breach?
- Trade Secret misappropriation SOL?
- Disposition of the TS claim by the court

Apple Computer v. Microsoft (9th Cir. 1994)

- Scope of settlement agreement and licenses granted
- Apple's current complaint

The Lisa 2 and 2/XL
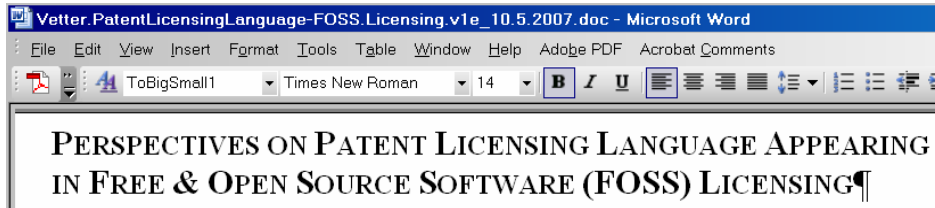
apple_lisa 2

apple lisa 2
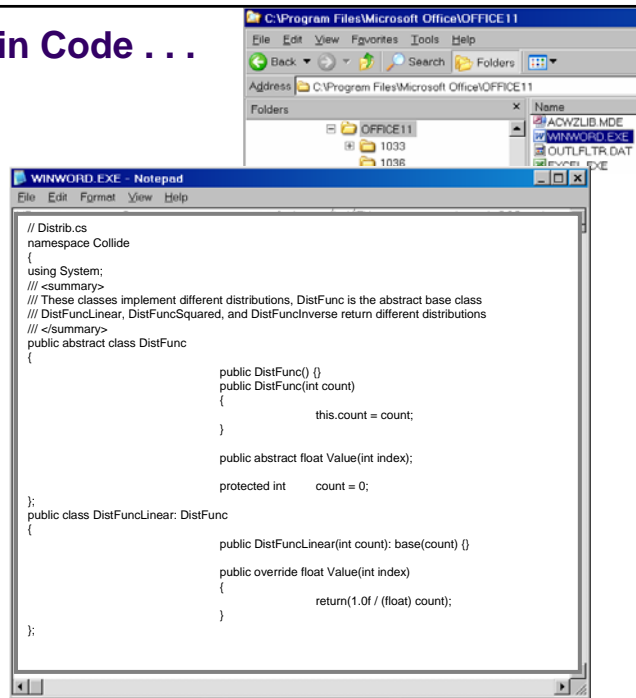
apple lisa screenshot
(thanks David Craig)

MICROSOFT
Microsoft Windows
Operating Environment

Keeping Secrets in Code and Content . . .

- Encoded to Disclose

Vetter.PatentLicensingLanguage-FOSS.Licensing.v1e_10.5.2007.doc - Microsoft Word

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ToBigSmall1 ▾ Times New Roman ▾ 14 ▾ **B** *I* U

PERSPECTIVES ON PATENT LICENSING LANGUAGE APPEARING IN FREE & OPEN SOURCE SOFTWARE (FOSS) LICENSING¶

Keeping Secrets in Code . . .

- Encoded for secrecy
  - Reasonable Precaution to merely rely on the compiler?

C:\Program Files\Microsoft Office\OFFICE11

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Address   C:\Program Files\Microsoft Office\OFFICE11

Folders

⊟ 📁 OFFICE11
 ⊞ 📁 1033
  📁 1036

Name
ACWZLIB.MDE
WINWORD.EXE
OUTLFLTR.DAT
EXCEL.EXE

WINWORD.EXE - Notepad

File   Edit   Format   View   Help

```
// Distrib.cs
namespace Collide
{
using System;
/// <summary>
/// These classes implement different distributions, DistFunc is the abstract base class
/// DistFuncLinear, DistFuncSquared, and DistFuncInverse return different distributions
/// </summary>
public abstract class DistFunc
{
                        public DistFunc() {}
                        public DistFunc(int count)
                        {
                                        this.count = count;
                        }

                        public abstract float Value(int index);

                        protected int        count = 0;
};
public class DistFuncLinear: DistFunc
{
                        public DistFuncLinear(int count): base(count) {}

                        public override float Value(int index)
                        {
                                        return(1.0f / (float) count);
                        }
};
```

U.S. Software Protection via Copyright

The limited right to exclude others from:	• Reproducing	• Distributing
	• Creating derivative works	• Publicly performing or displaying

Rights available to a copyright holder

Direct Copies
"RAM" Copies

Structure
Sequence
Organization

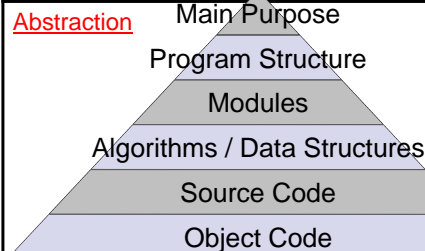Literal   –   Non-Literal
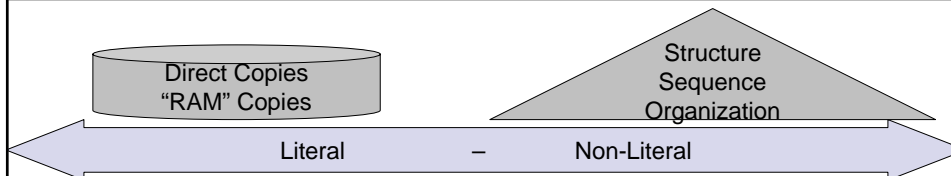
Code as a literary work
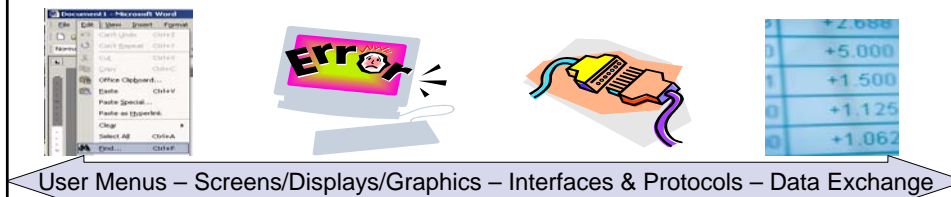
User Menus – Screens/Displays/Graphics – Interfaces & Protocols – Data Exchange

Interface(s) - Input/Output

U.S. Software Protection via Copyright

```
#include <iostream.h>
main()
{
        for(;;)
        {
        cout << "Hello World! ";
        }}
```

```
#include <iostream>
int main()
{
        std::cout << "Hello,
                world!\n";
}
```

Abstraction

Main Purpose
Program Structure
Modules
Algorithms / Data Structures
Source Code
Object Code

Filtration
- pure idea
- dictated by efficiency
- required by factors external to the program
- public domain

Comparison
- substantial similarity inquiry of what remains
- determine whether defendant copied protected expression

Non-literal infringement of code